THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

WRIT PETITION NO. 24934 OF 2005

DATED: 29-11-2005

Between

S.M. Allauddin.

..... PETITIONER

And

Sudhakar Reddy, S/o not known to the petitioner,

Aged 48 years, Occ: Business, R/o. H.No. 16-11-220/2,

Musarambagh, S.B.I Colony, Hyderabad and another.

..... RESPONDENTS

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WRIT PETITION NO. 24934 OF 2005

ORDER: (per Sri B. Sudershan Reddy, J)

The petitioner invokes the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to issue a writ of Habeas Corpus by declaring the action of the respondents in detaining Smt. Nida Fatima alias Ms. Avanti Reddy as illegal and arbitrary and consequently direct the respondents to produce and release her forthwith.

The petitioner and the 1st respondent are admittedly neighbours. In the affidavit filed by the petitioner in support of the writ petition, it is asserted that the petitioner and the daughter of the 1st respondent Miss Avanti Reddy got mutually admiration for each other and have decided to marry. That for the purpose of marriage, the daughter of the 1st respondent

Miss. Avanti Reddy, alleged detenue got converted and she has accepted Islam and her name was changed as Nida Fatima. On the same day, the marriage of the petitioner was performed with her in the presence of Qazi and two witnesses as per the customs prevalent under Muslim personal law.

The 1st respondent being the father of the alleged detenue Miss. Avanti Reddy, filed a report on 07-11-2005 stating that his daughter Avanti Reddy was missing since morning. When they have searched in the house they realized that along with a cash of

Rs.1,000/-, the following articles were missing:

1. Black beed chain (24 grams).
2. Ear Rings (5 grams).
3. Ring (5 grams).

Suspecting the involvement of the petitioner, they have provided the necessary clues to the police and accordingly requested them to take required action to trace his daughter. On the basis of the complaint, a case in Crime No. 388 of 2005 under the head 'girl missing' was registered on the file of the Malakpet Police Station and investigation was taken up. That during the course of investigation, the girl was found on 09-11-2005 and she was brought to the police station along with the petitioner. The 1st respondent was also present in the police station. The alleged detenue Miss. Avanti Reddy voluntarily left the police station along with the 1st respondent and as at present, residing with her parents.

The case in Crime No. 388 of 2005 is stated to be under investigation about which we do not propose to express any opinion. It is stated in the counter affidavit filed by the Police Officer that the statement of the alleged detenue under Section 164 Cr.P.C was also recorded by the learned VI Chief Metropolitan Magistrate, Hyderabad. It is thus clear that the learned VI Chief Metropolitan Magistrate is seized of the matter.

The only question that falls for our consideration in this writ petition is whether the Miss Avanti Reddy has been illegally detained by the 1st respondent and

whether her custody is illegal?

We have examined the petitioner as well as the 1st respondent and also the alleged detenue. The alleged detenue in clear and categorical terms stated before us that she is voluntarily residing with her parents at Malakpet. In such view of the matter, it cannot be said that she is in illegal custody of the 1st respondent. The alleged detenue is none other than the daughter of the 1st respondent and her residing with him is natural and there is no illegality as such.

For the aforesaid reasons, we find no merit in this Writ Petition and the same shall accordingly stand dismissed.

However, during the course of hearing of this writ petition, learned counsel for the 1st respondent submitted that the 1st respondent and his wife have been receiving threatening calls requiring them to release the alleged detenue from their custody. Since we have held that the alleged detenue residing with the 1st respondent is natural and there is no illegality in the same, we consider it appropriate to direct the 2nd respondent to make an enquiry and take appropriate action, provided a report is lodged by the 1st respondent. The report shall be lodged in writing which shall be received by the 2nd respondent. It shall be open to the 1st respondent to bring it to the notice of the Court, if no action is taken by the 2nd respondent.

(B. Sudershan Reddy, J)

29..11..2005

(S. Ananda Reddy, J)

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